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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,798	08/22/2001	Denis Faucher	15309-1US CC/MG	7972

20988 7590 01/26/2005  
OGILVY RENAULT  
1981 MCGILL COLLEGE AVENUE  
SUITE 1600  
MONTREAL, QC H3A2Y3  
CANADA

EXAMINER

RUDDOCK, ULA CORINNA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	09/933,798		FAUCHER, DENIS	
	<b>Examiner</b>		<b>Art Unit</b>	
	Ula C Ruddock		1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Examiner has carefully considered Applicant's response filed November 4, 2004. The objections to the claims have been overcome.

#### ***Terminal Disclaimer***

2. The terminal disclaimer filed on November 4, 2004, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/338,857 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### ***Claim Rejections - 35 USC § 102***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1-7 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Heifetz (US 2003/0054127), as shown in the rejection mailed October 5, 2004.

***With regard to newly amended claim 2, Heifetz discloses that an adhesive material is bonded to the cloth material [0142].***

**Rejection is maintained.**

5. Claims 1, 3-7, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0315239 (EP '239), as shown in the rejection mailed October 5, 2004.

**Rejection is maintained.**

#### ***Claim Rejections - 35 USC § 103***

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0315239 (EP '239), as shown in the rejection mailed October 5, 2004.

**Rejection is maintained.**

***Response to Arguments***

7. Applicant's arguments filed November 4, 2004, have been fully considered but they are not persuasive for the reasons set forth. Applicant argues that there is not detachment of layers in the present invention, as disclosed by Heifetz. While the Examiner agrees that Heifetz discloses detachments, these detachments do not occur in the upper layer of Heifetz which comprises the components of the present invention. The detachments of the Heifetz invention occur between the upper and layer. The upper layer of Heifetz comprises the metallic film coating on the bitumen layer with SBS and the woven or non-woven cloths are supporting the bitumen layer. As seen in Figure 3, the upper layer is shown in reference point 14 and the metallic film would be on the surface of the reference point 14. Furthermore, the fabric (i.e. Applicant's fabric support sheet) is shown at reference point 20. The lower layer of Heifetz, shown at reference point 16, can be detached from the upper layer. Therefore, the detachments that Applicant is arguing have nothing to do with the upper layer which comprises all of Applicant's invention.

Applicant also argues that stretching occurs in the Heifetz invention, but not in the present invention. This argument is not persuasive because the claims, as presently written, do not preclude stretching.

Applicant also argues that EP '239 reference fails to disclose the invention. The EP '239 reference discloses bitumen layer having a surface coating of metal sheet and a supporting fabric, which is the same as Applicant's invention. It is not seen how Applicant arrived at the conclusion that EP '239 "consists of a layer of waterproofing material, over which there is a porous adherent

support, the latter being covered or coated with an impervious surfacing material," since no figures are present in the EP '239 reference.

All rejections have been maintained.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1771

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

UCR

*Ula Ruddock*  
**Ula C. Ruddock**  
Primary Examiner  
Tech Center 1700